

**Chapter 8**  
**AUTOMOTIVE DEALERS AND AUTO WRECKERS**

\*\*\*

**ARTICLE II. AUTOMOTIVE DEALERS**  
**DIVISION 1. GENERALLY**

**Sec. 8-16. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

\*\*\*

*Automotive rebuilders.* Any person who, primarily or incidentally, wholly or part time, engages in, conducts, or carries on the public business of buying, selling, offering for sale, consigning to be sold, trading or otherwise dealing with the public in or operating as a public dealer in used, ~~or secondhand~~ or salvage titled motor vehicles or trailers ~~for the purpose by the method or plan of rebuilding or dismantling of wrecked or salvage titled motor vehicles or trailers or of dismantling, wrecking, disassembling and selling the dismantled wrecks or the disassembled parts or accessories thereof to the public.~~

\*\*\*

*~~Automotive~~ Consent storage lot operator.* Any person who engages in, conducts or carries on the public business of storing motor vehicles, including wrecked, damaged, ~~or and~~ repossessed motor vehicles; provided however that this term shall not include those who store new motor vehicles pending the retail sales thereof nor those who own or operate lots or garages for the hourly or daily parking of motor vehicles. The term also shall not include any facility that is required to be licensed pursuant to the Vehicle Storage Facility Act (chapter 2303 of the Texas Occupations Code ~~article 6687-9a, Texas Revised Civil Statutes~~) unless the facility, in addition to keeping vehicles parked or stored without the owners' consent, as authorized by a license granted thereunder, keeps vehicles parked or stored with the owners' consent.

\*\*\*

*Dealer in motor vehicles.* Any person who, publicly engages in, conducts, or carries on the business of buying, selling, offering for sale to the public, consigning to be sold to the public, trading or otherwise dealing in motor vehicles or motor vehicle trailers, or both; provided, however, that this term does not include a person who repairs or stores disabled, wrecked, or salvage titled motor vehicles, with and to the public.

\*\*\*

Salvage titled motor vehicle means a motor vehicle that has been issued a salvage vehicle title by the Texas Department of Motor Vehicles pursuant to Texas Transportation Code chapter 501.

\*\*\*

Used automotive parts recycler means any person who engages in the public business of keeping or storing discarded, abandoned, junked, wrecked, worn out, salvage titled or otherwise disabled or nonrepairable motor vehicles, including but not limited to cars, trucks, tractor trailers and buses, for the purpose of disassembling, dismantling, cutting up, stripping or otherwise wrecking those motor vehicles to extract therefrom parts, components, or accessories for sale, export or use in an automotive repair or rebuilding business.

#### **Sec. 8-17. Automotive board.**

\*\*\*

(b) Appointments to positions created hereunder shall be made on or before January second of each year and shall take effect on that date. Each member of the board shall serve for a term of two ~~one~~ years and until his successor has been appointed and qualified. Any appointed member of the board shall be subject to discharge and removal from his position on the board at any time by the mayor.

\*\*\*

#### **Sec. 8-26. Other required records.**

(a) Every person who, as dealer, ~~shall~~ makes any sale, purchase, transfer or exchange of either a new or used motor vehicle, or new or used motor vehicle trailer, in the city shall keep a permanent, ~~written~~ record of any and all transfers and assignments, ~~if any,~~ made by such person, or chattel mortgages, liens or notes covered by or secured by lien upon such motor vehicles or motor vehicle trailers. The ~~such~~ record shall include the following information:

(1) The ~~to show the~~ name and address of each transferee; and,

(2) A description of the mortgage, lien or note transferred and of the property affected thereby, including the motor number, model and license number of the motor vehicle or trailer therein involved. ~~It shall be required that the person selling the car has a valid government issued ID, and that all information is recorded off of such ID.~~

(b) Every licensee under this article who ~~shall~~ repossesses any motor vehicle or trailer or forecloses any lien or mortgage upon any motor vehicle shall keep a permanent, ~~written~~ record thereof, ~~and of each such repossession or foreclosure.~~ The record shall include the following information:

(1) The ~~stating the~~ name of the mortgagor or lienholder;

- (2) The ~~the~~ amount of indebtedness, principal, interest and other items, if any, separately;
- (3) The ~~the~~ date and manner of foreclosure, whether by suit or private sale; and;
- (4) The ~~the~~ description of the property repossessed or foreclosed upon, including the motor number, model and license number of the motor vehicle or trailer therein involved, and the name and address of the purchaser thereof.

(c) Each person to whom a license is issued under this article to deal in secondhand or used motor vehicle parts or accessories shall keep at all times in the place of business of such licensee a ~~written~~ record of, secondhand and used motor vehicle accessories and parts except tires, purchased by the licensee or deposited for any purpose with such licensee, and of each motor vehicle or motor vehicle trailer purchased or received by such person for the purpose of rebuilding or dismantling the same.

With respect to accessories and parts, the ~~record inventory~~ shall include any item that constitutes a "major component part" as defined in section 501.0914 of the Texas Transportation Code, or a "component part," ~~"front-end assembly," "tail section,"~~ "interior component part," ~~"minor component part,"~~ and "special accessory part" as those terms are defined in section 2302.251 of the Texas Occupations Code article 6687-2 of the Texas Revised Civil Statutes. Additionally, the record shall include any other part or parts that are regularly the subject of trade by automotive parts thieves as determined by regulation promulgated by the automotive board; and supported by clear and convincing evidence that there is recurring ~~reoccurring~~ theft of the same type of part, provided that; any such automotive board regulation that adds additional parts shall expire on the second anniversary of its adoption unless extended by the automotive board, and is again supported by clear and convincing evidence that there is reoccurring theft of the same type of part. Such record shall include the following information: must show

- (1) The vehicle identification number ~~the motor number~~ and license number of all motor vehicles or trailers transferred unto the licensee;
- (2) An ~~and an~~ accurate description in the English language of the secondhand or used motor vehicle parts or accessories ~~article~~ purchased or deposited, the vehicle identification number of the motor vehicle from which the parts or accessories were removed, the amount of money paid for same or loaned thereon, and the time of purchase, transfer, or deposit thereof;

~~(3) The showing the name, age, sex, signature, if any, residence, race, and approximate height and weight of the person (transferor or seller) from whom the licensee so acquired the property;~~

~~(4) A and shall include a photograph showing of the face of the such transferor or seller together with the secondhand or used motor vehicle parts or accessories article so purchased and a thumbprint of the such transferor or seller, provided that if a licensee acquires an entire motor vehicle or trailer is acquired from the person who is the owner of the vehicle, then in lieu of the aforesaid photograph and thumbprint, the buyer may obtain and maintain a copy of the seller's vehicle title and. It shall be required that the person selling the car has a valid government issued ID, and that all information is recorded off of such ID. Such written record must also include the vehicle identification number of the motor vehicle or the trailer; and.~~

~~(5) A Such written record must also include a unique identification inventory number which corresponds to a transaction and has been attached to the motor vehicle or trailer and to the secondhand or used motor vehicle parts or accessories purchased by the licensee. Such written record shall be kept in book form or in an approved computerized format. The record must include the part description and a unique inventory number or motor vehicle identification number from which the part came.~~

~~(d) It is an affirmative defense to prosecution under this subsection that both the transferor and the transferee are city and/or state licensed dealers in used parts and used accessories and that the transfer was documented in full compliance with Chapter 2302 of the Texas Occupations Code State Law 6687-2 requesting with the name of the business from which that the motor vehicle or motor vehicle part is was purchased from and the Texas Certificate of Inventory number or federal taxpayer identification number. The and the record must include the part description and a unique inventory number or motor vehicle identification number from which the part came. It is also an affirmative defense to prosecution under this section that the transferee is a city licensed dealer in used parts and used accessories and that the transferor is a person who conducts a similar business in another jurisdiction who caused the parts or accessories to be delivered to the transferee by commercial freight line or common carrier and the transferee documented the inventory number kept by the transferor for the part under Texas state law, if the transferor resides in Texas, or obtain the transferor's federal taxpayer identification number if the transferor resides outside the State of Texas. The provisions of this subsection (e) are in addition to any applicable state law, including but not limited to Chapter 2302 of the Texas Occupations Code article 6687-2 of the Texas Revised Civil Statutes. Records forms promulgated hereunder shall be designed to include applicable any state requirements that are also applicable in order to avoid any duplication of records. Any violation of this section that also constitutes a violation of state law shall be punishable as provided by the applicable state law.~~

(e) A person who sells a motor vehicle, a motor vehicle trailer, or a secondhand or used motor vehicle accessory or part to a licensee under this section must have a valid government issued identification from which the licensee shall record the required information.

(f) All records required to be maintained under this section shall be kept at the licensee's place of business in written form or in an electronic recordkeeping system.

\*\*\*

**Sec. 8-30. Used automotive parts recyclers, automotive rebuilders and Automobile wrecking and salvage yards, automotive repair facilities.**

(a) *Definitions:*

\*\*\*

Automotive rebuilder lot means any lot or tract of land used for the purpose of carrying on the trade of an "automobile rebuilder," as defined in this chapter.

Used automotive parts recycler lot means ~~Automotive wrecking and salvage yard as used herein shall mean~~ any lot or tract of land used for the purpose of carrying on the business or trade of an "used automotive parts recycler automotive rebuilder," as defined in this chapter, ~~or any lot or tract of land whereon three or more discarded, abandoned, junked, wrecked, worn out or otherwise disabled automotive vehicles, including but not limited to autos, trucks, tractor trailers and buses, are kept or stored for the purpose of disassembling, dismantling, cutting up, stripping or otherwise wrecking such automotive vehicles to extract therefrom parts, components or accessories for sale or for use in an automotive repair or rebuilding business.~~

\*\*\*

(b) *Compliance.* All lots and tracts of land used ~~for the purpose of~~ to carrying on the business or trade of a used automotive parts recycler ~~an automotive wrecking and salvage yard~~ or an automotive rebuilder or an automotive repair facility or an automotive business dealing in used parts and used accessories shall comply with the requirements of this section.

(c) *Removal of flammable liquids from vehicles.* All gasoline, gasohol, and diesel fuel shall be completely drained and removed from any junked, wrecked or abandoned automotive vehicle before the vehicle is placed in any ~~automotive wrecking and salvage yard~~ used automotive parts recycler lot or lot yard operated by an automotive rebuilder or automotive repair facility in the city. All flammable liquids drained from any vehicle in the lot ~~such yard~~ shall be stored in a safe manner and in strict accordance with the Fire Code of the city.

(d) *Fencing wall requirements.* Each area utilized for the keeping or storing of used automotive parts and/or used accessories by an automotive business dealing in used parts and used accessories or each area that is utilized for the keeping, storing, dismantling, cutting up, stripping or otherwise wrecking of any discarded, abandoned, junked, wrecked or otherwise disabled automotive vehicles upon any used automotive parts recycler lot, automotive rebuilder lot ~~automotive wrecking and salvage yard~~ or any automotive repair facility within the city shall be completely surrounded and enclosed by a solid fence or wall as follows:

- (1) Any side of the lot ~~such yard~~ which extends generally parallel to, and within one hundred (100) feet of any public street right-of-way shall be bounded by a solid fence or wall at least eight feet in height.
- (2) All sides of the lot ~~such yard~~ not included in (d)(1) above shall be bounded by a solid fence or wall at least six feet in height.

(e) *Construction, maintenance of fence or wall.* Every fence or wall herein required shall be constructed and maintained as follows:

- (1) All fences shall be constructed of wood, masonry, corrugated sheet metal, chain link, or any combination thereof; provided, however, that any one side of a used automotive parts recycler's lot, automotive rebuilder's lot ~~an automotive wrecking and salvage yard~~ or automotive repair facility shall be bounded by a fence or wall constructed of only one of the above materials.
- (2) Chain link fences shall be constructed of galvanized chain link fencing with wood or metal slats or strips run through all links of the chain link fence.
- (3) All fences or walls shall extend downward to within three inches of the ground and shall test plumb and square at all times.
- (4) All fences or walls shall be constructed in compliance with all applicable provisions of the Construction Code.

(f) *Use of wall, door or building as part of fence or wall.* Any part of a fence or wall required by subsection (d) of this section ~~hereof~~ may consist in whole or in part of a solid wall and door, or walls and doors of any completely enclosed building on the said premises, if the ~~such~~ wall or door meets all construction requirements ~~hereinabove~~ set forth herein.

(g) *Gates at openings in enclosure.* Openings in the prescribed enclosure that ~~which~~ are necessary to permit reasonable access to used automotive parts recyclers, automotive rebuilders ~~said automotive wrecking salvage yards,~~ automotive repair facilities or automotive businesses dealing in used parts and used accessories shall be equipped with a solid gate or gates, constructed and maintained in

accordance with the requirements for a fence or wall hereinabove set forth. Such gates shall be closed and securely locked at all times, except during normal business hours.

(h) *Use of premises outside enclosure.* It shall be unlawful for any owner, operator, his agents or employees, to display, store or work on any junked or wrecked automotive vehicle, or the parts, accessories or junk therefrom outside of or above the herein required fence or wall. It is a defense to prosecution under this subsection that the actor has established and is using one unfenced rectangular area not exceeding ten feet by 100 feet in maximum dimensions upon the premises to display dismantled component parts or accessories for sale, which parts and accessories are stored and arranged in compliance with all other applicable provisions of this section. The display area authorized in the foregoing affirmative defense may also be utilized for the display for sale of whole motor vehicles, whether wrecked or damaged or not, provided that the operator of the premises also holds an automotive dealer's license for vehicle sales at the premises. Nothing in this subsection shall be construed to authorize the use of any public street or other public property for the sale or display of any merchandise in contravention of section 40-8 of this Code.

(i) *Arrangements of vehicles, parts and materials.*

- (1) All automotive vehicles, parts and other materials located in or on the premises of any used automotive parts recycler, automotive rebuilder, ~~automotive wrecking and salvage yard or~~ automotive repair facility or automotive business dealing in used parts and used accessories in the city shall be arranged so as to allow reasonable access to, and inspection of, the premises by authorized fire, health, neighborhood protection and police officials of the city.
- (2) All automotive vehicles, parts and materials stored in any used automotive parts recycler's lot, automotive rebuilder's lot ~~automotive wrecking and salvage yard,~~ automotive repair facility, or automotive business dealing in used parts and used accessories must be stored at least six inches above the surface of the lot ~~yard~~. A motor vehicle stored in its normal upright position shall be deemed to be stored in compliance with the foregoing requirement if all portions of the body floor plan of the vehicle are situated at least six inches above the lot surface, regardless of the height of wheels, tires, brake components, axles and suspension components that are attached in their normal manner to the vehicle and regardless of the height of wheels, tires or other devices used to elevate the vehicle.

It is an affirmative defense to prosecution under this item (2) that the vehicle's parts and materials were in process of disassembly and were situated within a "disassembly area" designated on a used automotive parts recycler lot or automotive builder lot ~~upon an automotive wrecking and salvage yard~~ pursuant to item (3), below, at the time of the alleged offense.

- (3) Each duly licensed used automotive parts recycler or automotive rebuilder ~~automotive wrecking and salvage yard~~ may file with the automotive board a plat or legal survey of its said yard lot accurately setting forth under oath the dimensions and size of the lot thereof, exclusive of all covered improvements and out buildings utilized as part thereof and in connection therewith. ~~The~~ Such plat or legal survey shall also accurately depict all adjoining public thoroughfares. Each ~~such yard business~~ filing a such plat or legal survey may designate upon the such plat or legal survey an accurately delineated open area not to exceed 20 percent of the unimproved area within the lot yard, or 21,780 square feet within the lot yard, whichever designation is smaller, as a "disassembly area." Upon approval of the such plat or legal survey and designated "disassembly area" by the automotive board, the duly licensed ~~yard lot~~ operator may the use such area for the active disassembly of wrecked vehicles in the usual course of lot yard business. A true copy of the such approved plat or legal survey and designated "disassembly area" shall be displayed at all times upon the premises of business for review by any peace officer of the State of Texas or the neighborhood protection official of the city.

(j) *Control of vegetation.* It shall be unlawful for the owner or operator of a used automotive parts recycler lot, automotive rebuilder lot ~~an automotive wrecking and salvage yard~~, automotive repair facility or automotive business dealing in used parts and used accessories to allow grass or other vegetation to grow to a height of more than nine inches above the ground.

(k) *Watershed.* No used automotive parts recycler lot, automotive rebuilder lot ~~automotive wrecking and salvage yard~~, automotive repair facility or automotive business dealing in used parts and used accessories shall be located on top of a watershed.

(l) *Compliance with regulations and ordinances.* All used automotive parts recycler lots, automotive rebuilder lots ~~automotive wrecking and salvage yards~~, and all automotive repair facilities and all automotive businesses dealing in used parts and used accessories must at all times be in full compliance with all city ordinances regarding health and safety, including specifically without limitation, all requirements of the Fire Code, and with state regulations regarding hazardous waste disposal including requirements promulgated by the Texas Commission on Environmental Quality.

(m) *Improved surface.* All portions of lots or tracts of land used in the operation of a used automotive parts recycler lot, automotive rebuilder lot ~~an automotive wrecking and salvage yard~~, an automotive repair facility or an automotive business dealing in used parts and used accessories must have an all-weather surface of concrete, asphalt, blacktop, stone, macadam, limestone, iron ore, brick pavers, gravel or shell of such composition and drainage as to enable the safe and effective movement of motor



vehicles upon all portions of the lot, both under their own power and under tow, at all times regardless of prevailing weather conditions.

(n) *Violations and penalties.* Failure by any person to comply with any provision of this section shall be grounds for the revocation of or the refusal to issue or renew any license required of the owner or operator of a used automotive parts recycler lot ~~an automotive wrecking and salvage yard~~, an automotive rebuilder, automotive repair facility or an automotive business dealing in used parts and used accessories under this Code. It shall be unlawful for any person to fail to comply with any applicable provision of this section.

(o) *Vehicles stored less than 30 days for repairs.* For automotive repair facilities it is an affirmative defense to prosecution under subsections (c) and (d), above, that a wrecked or disabled vehicle stored thereupon is owned by a person other than the owner of the automotive repair facility and is being stored at the automotive repair facility for the purpose of its repair at the automotive repair facility and that the vehicle has been stored upon the automotive repair facility for 30 days or less at the time of the alleged offense.

#### **Sec. 8-31. Penalty.**

Unless otherwise provided, and regardless of whether the person holds a valid license issued pursuant to this chapter, any person who violates any provision of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$200.00 nor more than \$500.00; provided, however, if the person is convicted of an offense under this article that is also a violation of the penal laws of the state, the person shall be subject to the penalties set out in the penal laws for the offense.

A used parts and accessories seller commits a separate offense for each sale of used parts and/or used accessories made without a valid salesman's license. The offense shall be punishable by a fine of not less than \$200.00 nor more than \$500.00 than for each transaction.

#### **Sec. 8-57. Approval or disapproval of application.**

(a) The automotive board shall consider the application for a license under this division and the report of the chief of police or his duly authorized representative concerning the same, after which time it shall stamp its approval or disapproval on such application.

(b) If the automotive board refuses to approve an application for a license or revokes or suspends a license under this division, the automotive board's decision shall be final ~~the applicant or licensee therefor shall have the right of appeal to the city council; provided, however, if the license is denied, suspended or revoked due to a conviction pursuant to section 1-10 of this Code, then such applicant or licensee shall have no right of appeal to the city council.~~ In all other cases, an appeal may be set

~~pursuant to Rule 12 of section 2-2 of the Code and by filing a written request in the office of the city secretary within ten days after the action of the automotive board disapproving the application or revoking or suspending the license. The city secretary shall select a date for the hearing and written notice thereof will be given to the applicant. If such appeal is from the denial of a license and if such license is granted by the city council, the applicant therefor shall be entitled to the issuance thereof in the same manner as other licenses are issued hereunder.~~

~~\*\*\*~~

## DIVISION 2. Dealer's License.

### **Sec. 8-58. Fees.**

(a) The following schedule shall constitute the types of licenses issued under this division, for which the fees ~~is~~ are stated for this provision in the city fee schedule and shall be payable to the chief of police.

(b) Fees on all licenses issued during any calendar year shall be paid in advance to the chief of police.

(c) Any combination license may be issued for any combination of the businesses governed by this article, upon payment of the appropriate fee as herein provided, after application for such license has been made and approval has been granted by the automotive board pursuant to the terms of this division. The following shall constitute the schedule of combination licenses issued under this division, for which the fees stated for this provision in the city fee schedule shall be payable to the chief of police in lieu of separate licenses for two or more classes of business conducted by the licensee.

(d) A dealer who inadvertently obtains duplicate licenses for the same address under subsections (a) and (c) shall be entitled to a refund for such duplication; provided, the city shall retain the fee stated for this provision in the city fee schedule for handling the refund.

(e) Upon disapproval by the automotive board of any license issued hereunder, the applicant (by requesting same in writing) shall be entitled to a refund of money paid the city; provided, the city shall retain the fee stated for this provision in the city fee schedule for handling the refund.

(f) No license issued pursuant to the provisions of this division may be renewed more than 30 days after the date of its expiration. If a license had expired and not been renewed within 30 days, the applicant may apply for a new license as an initial applicant. The fee for such a new license shall be the fee set out for an original license.

(g) It shall be unlawful for any person to operate a business for which a license is required under this division without first obtaining a license therefor.

**Sec. 8-66. Revocation or suspension.**

(a) The automotive board may revoke or suspend a license after it has been granted under this division for any of the following reasons:

- (1) Habitual drunkenness or the use of narcotics by the licensee.
- (2) Conviction of an offense pursuant to section 1-10 of this Code.
- (3) Adjudication of insanity of the licensee.
- (4) Fraud or misrepresentation in obtaining the license.
- (5) Violation by the licensee, on more than one occasion, either willfully or maliciously or by reason of incompetence, of any of the provisions of this chapter or of any rule or regulation adopted and promulgated by the automotive board and approved by the city council, under authority vested in it by this chapter.
- (6) Upon satisfactory proof that the licensee has violated any of the laws of Texas affecting either the sale of automobiles or the operation of the business or service for which the license was issued.
- (7) Proof that the licensee has represented and sold as a new and unused motor vehicle any motor vehicle which has been operated for demonstration purposes or which is otherwise a used motor vehicle.
- (8) Proof that the licensee has sold or offered for sale as a new and unused motor vehicle any motor vehicle for which he cannot secure for the purchaser thereof such new car warranty as may be extended by the manufacturer of the car to the purchaser of one of its new cars, unless he shall explain to the purchaser and show on the bill of sale that the car is being sold without any warranty being extended by the manufacturer.
- (9) Proof that the licensee resorts to or uses any false or misleading advertising in connection with his business as such motor vehicle dealer or motor vehicle salesman.
- (10) Proof that the licensee gives false or fictitious names or addresses for the purpose of registering the sale of a motor vehicle, or makes application for the registration of a motor vehicle in the name of any person other than the true owner, or any other fraudulent practices to evade the meaning of this section.

(b) The automotive board, before taking any action under this section, shall give the licensee written notice of the violation or offense complained of and shall conduct a hearing inquiring into such violation or offense, at which time the licensee shall have an opportunity to present evidence on his behalf. If the board revokes or suspends a license because the licensee has been convicted of the commission of a felony or of a misdemeanor involving moral turpitude, the revocation or suspension shall be effective

immediately.

(c) The determination of the automotive board with respect to the application shall be final. A licensee whose license has been revoked or suspended by the automotive board shall have the right to appeal such revocation or suspension to the city council in the manner and under the terms and conditions provided for in section 8-57 of this Code and the council shall follow the procedure set forth in that section.

\*\*\*

### DIVISION 3. PRIVATE STORAGE YARDS

\*\*\*

#### **Sec. 8-155. Standards for approval.**

An application for authorization to operate a private storage lot shall ~~not~~ be approved unless if:

- (1) There is no current license issued by the automotive board under article II of this chapter for the applicant to operate an automobile storage lot at that location.
- (2) Any information set out in the application was incomplete or false.
- (3) The applicant has not signed an agreement as required under section 8-152(b).
- (4) The proposed private storage lot has less than 25,000 square feet of space ~~ten vehicle storage or parking spaces~~ that will be dedicated ~~used~~ for the storage of motor vehicles.

A private storage lot that was first operated under an authorization on or before \_\_\_\_\_, <sup>1</sup> shall be exempt from the requirements of item (4) of this section, provided that the private storage lot is operated continuously under an authorization or renewal authorization without termination or lapse longer than 90 days.

\*\*\*

#### **Sec. 8-172. Business name; fences, paving, signs, etc.**

\*\*\*

- (b) Each storage lot operating under an authorization issued under this article:
  - (1) Shall be completely enclosed by a solid fence that complies with subsections (d), (e), (f), and (g) of section 8-30 of this Code ~~of at least six feet in height~~, with a gate that is locked at all times the authorization holder or an agent or employee is not at the storage lot;

\*\*\*

---

<sup>1</sup> City Secretary/Editor shall insert the effective date of this Ordinance.

A private storage lot that was first operated under an authorization on or before \_\_\_\_\_,<sup>2</sup> shall be exempt from the requirements of item (1) of this subsection, provided that the private storage lot is operated continuously under an authorization or renewal authorization without termination or lapse longer than 90 days.

\*\*\*

**Sec. 28-34. Location of automobile storage lots, used automotive parts recyclers, lots used for open storage by automotive rebuilders, ~~automobile wrecking and salvage yards~~ and lots used for open storage by metal recyclers/secondhand metal dealers.**

(a) *Prohibition.* It shall be unlawful for any person to operate or cause to be operated within 300 feet of an existing church, school, or residence:

- (1) Aan automobile storage lot, whether licensed as an automotive storage lot pursuant to chapter 8 of this Code or as a vehicle storage facility pursuant to the Vehicle Storage Facility Act (chapter 2303 of the Texas Occupations Code article 6687-9a, Texas Revised Civil Statutes);<sub>17</sub>
- (2) A used automotive parts recycler an automotive wrecking and salvage yard as defined in chapter 8 of this Code;<sub>17</sub>
- (3) A lot used for open storage by an automotive rebuilder as defined in chapter 8 of this Code;
- (4) A a lot used for open storage by a metal recycler/secondhand metal dealer, all as defined in chapter 7 of this Code;<sub>17</sub>
- (5) A or a lot used for open storage by a used parts and used accessories dealer as defined in chapter 8 of this Code, within 300 feet of an existing church, school, or residence.

(b) *Measurement.* The 300 foot measurement required under this section shall be in a straight line from the property line or (at the applicant's request) from the boundary of operations of the automobile storage lot, used automotive parts recycler, lot used for open storage by an automotive rebuilder ~~automobile wrecking and salvage yard~~, or lot used by a metal recycler/secondhand metal dealer to the property line of the church, school or residence. The 300 foot measurement is made on the basis of land uses in existence at the time that the original permit or license application for the facility is filed and at the time of any expansion of the size of the property used for the facility. A facility that is lawfully in operation shall not become unlawful because a church, school, or residence is subsequently established within 300 feet of the facility and, provided that the facility remains continuously in operation without cessation for a period of 90 or more consecutive days, the permit or license for the facility may, subject to compliance with other applicable laws, nevertheless be renewed or transferred.

<sup>2</sup> City Secretary/Editor shall insert the effective date of this Ordinance.

~~(c-b)~~ *Definitions and standards.*

~~(6)~~ *Boundary of operations.* Shall be the fence line limiting the portion of a larger lot or tract to be used as the business operation area for the business requiring licensure under this Code. The boundary of operations and the fence shall be shown on a legal (or official) survey filed with the application for license and must be fenced according to the applicable standards of this Code. ~~The fence shall be shown on the survey.~~ The survey shall additionally show each route that will be used for vehicular ingress or egress to the business operation area. If the ingress or egress will not be exclusively taken from one or more public streets that abut the business operation area, then each route of vehicular ingress or egress must be included within the surveyed and fenced boundary of operations. This definition is applicable to automobile storage lots, used automotive parts recyclers, lots used for open storage by automotive rebuilders ~~automobile wrecking and salvage yards~~, and lots used for open storage by metal recyclers/secondhand metal dealers only and has no effect on any other person or business required to be licensed by the city.

~~(4)~~ *Church.* A structure where a society of persons who profess a religious belief regularly assemble for religious worship or religious instruction and which is exempt from ad valorem taxes.

~~(4)~~ *Open storage.* Materials stored upon a lot not within an enclosed structure.

~~(3)~~ *Residence.* Any structure which, at the time of the application for a license is filed, is being used as a dwelling place for residential purposes, whether single-family or multifamily. A structure located on a lot or tract of land used as an automobile storage lot, used automotive parts recycler, lot used for open storage by an automotive rebuilder, ~~automobile wrecking and salvage yard~~ or lot used for open storage by a metal recycler/secondhand metal dealer shall not be considered a residence within the terms of this definition.

~~(2)~~ *School.* A public or private elementary, junior high, or ~~and~~ high school.

~~———(5) Measurement of 300 feet.~~ Shall be in a straight line from the property line ~~or (at the applicant's request) from the boundary of operations of the automobile storage lot, automobile wrecking and salvage yard, or lot used by a metal recycler/secondhand metal dealer to the property line of the church, school or residence.~~

~~(d-e)~~ *Existing structure.*

- (1) The terms of this section shall apply to all existing licensed automobile storage lots, used automotive parts recycler lots, lots used for open storage by automotive rebuilders ~~automobile wrecking and salvage yards,~~ and lots used for open storage by metal recyclers/secondhand metal dealers, from and after December 22, 1982, and to all lots used for open storage by a used parts and used accessories dealer, from and after December 22, 1993. Any owner or operator of an automobile storage lot, used automotive parts recycler lot, lot used for open storage by an automotive rebuilder, ~~automobile wrecking and salvage yard~~ or lot used for open storage by a metal recycler/secondhand metal dealer, which as of December 22, 1982, and any owner or operator of a lot used for open storage by a used parts and used accessories dealer, which as of December 22, 1993, is located within 300 feet of a church, school or residence shall, within 30 days of the date specified above, as applicable, make application with the appropriate licensing department for a special permit that indicates that the holder of the permit is located within 300 feet of a church, school or residence. It shall be unlawful to own or operate an automobile storage lot, used automotive parts recycler lot, lot used for open storage by an automotive rebuilder ~~automobile wrecking and salvage yard,~~ a lot used for open storage by a metal recycler/secondhand metal dealer or a lot used for open storage by a used parts and used accessories dealer within 300 feet of a church, school or residence without first procuring the special permit required by this subsection.
- (2) Subject to compliance with other applicable laws, including chapters 7 and 8 of this Code as applicable, a special permit may be transferred to another owner. Application shall be made to the department responsible for issuing the permit, ~~whether the police department or the administration and regulatory affairs department,~~ and the permit shall be executed by both the transferor and the transferee. In the event that the use of the premises is suspended at any time for a period of 90 or more consecutive days, then the special permit shall expire, and this provision shall not be construed to allow the transfer of a special permit that has so expired. A special permit may be revoked for failure to comply with any applicable law, regulation, or statute relating to the licensing or other regulation of the business.
- (3) If improvements upon any lot covered by this subsection are destroyed or damaged as a result of fire, explosion, weather or other Act of God in excess of 50 percent of the value of the then-current market value of the improvement based on the current city tax rolls, such improvement shall not be rebuilt or otherwise reconstructed. Nothing in this subsection shall be construed to prohibit the minor repair or routine maintenance of any existing improvements.

- (4) No holder of a special permit shall be entitled to expand or otherwise enlarge the business by adding additional improvements or land or to make a new investment thereto; provided, however, that this restriction on the addition of improvements shall not apply to improvements made in order to comply with any state or local ordinance, statute or regulations.
- (5) If a licensed automobile storage lot, used automotive parts recycler lot, lot used for open storage by an automotive rebuilder ~~automobile wrecking and salvage yard~~, or a lot used for open storage by a metal recycler/secondhand metal dealer or a used auto parts and used accessories dealer holds a valid special permit under this subsection, then it shall not be placed in violation of this section, or become ineligible for a renewal of a permit or license, or be required to obtain a special permit, due to the subsequent construction or placement of a church, school or residence within 300 feet of the location of such licensed business.

~~(e-d)~~ *Newly annexed areas.* Persons owning or operating automobile storage lots, used automotive parts recycler lots, lots used for open storage by automotive rebuilders ~~automobile wrecking and salvage yards~~, lots used for open storage by metal recyclers/secondhand metal dealers, and used parts and used accessories dealers situated in areas that are newly annexed into the corporate limits of the city after the dates specified in subsection (c) above, as applicable, may apply for and be granted special permits in the same manner provided for existing owners or operators under subsection (c), above. The application for the special permit must be filed within 30 days following the effective date of the annexation of the area where the lot or yard is situated. Special permits issued under this subsection and holders thereof shall be subject to all of the same restrictions imposed under subsection (c) with regard to other special permits and holders thereof, provided that the effective date of the annexation of the area where the lot or yard is situated shall apply in lieu of the applicable date specified in subsection (c) above, in any determination made with regard to the special permit or business operated thereunder. The provisions of this subsection shall not be available to the operator of any premises unless the premises was open for a business subject to regulation under this section on the date of first publication in a newspaper of general circulation of the notice of annexation hearings under section 43.052 of the Local Government Code or unless the operator had, on or before that date, leased or purchased the property and had actually commenced improving it for the express purpose of establishing the regulated business.

\*\*\*

G:\GENERAL\TBC\ORDS\Ch8\Ch8AutoDealersredline3a.docx 8/12/2013 2:21 PM